IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Chapter VIII, Rule 32(2)(b)

Description of the case

Writ Petition No.1037 of 2001 (S/B)

Date of decision: 11th of February, 2005.

For the Approval of:

Hon'ble Chief Justice V.S. Sirpurkar

Hon'ble Mr. Justice P.C. Pant

-Whether the order/judgment should be sent to the reporters for reporting? ( )

-Whether the reporters be allowed to see the Judgment? (Yes)

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IN THE HIGH COURT 0F UTTARANCHAL AT NAINITAL

Writ Petition No. 1037 (S/B) of 2001
(Old Number 347 of 1998)

Sushil Kumar Nagpal
Aged about 31 years,
s/o Sri Subhash Chandra Nagpal,
r/o Arya Samaj Building ,
Nainital-263001 …….. Petitioner

Vs.

1. Chancellor Kumaon University,
   Raj Bhawan, Lucknow,
2. Vice Chancellor, Kumaon University,
   Nainital,
3. Kumaon University, Nainital,
   through its Registrar ……. Respondents.

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Mr. R.Dobhal, learned counsel for the petitioner.
Mr. B.D. Upadhyaya, learned counsel for the respondents.

Coram: Hon. V.S. Sirpurkar, C.J.
Hon. P.C. Pant, J.

Dated: 11.02.2005

[Per Hon'ble Chief Justice]

1. In this writ petition, the petitioner is challenging a resolution of the University Executive Council, wherein decision has been taken to terminate the part time appointment of the petitioner as a Lecturer and blacking-listing him for future from being considered for the post of Lecturer.

2. The University has recorded a finding that the petitioner had filed a wrong affidavit intimating the University that the High Court of Allahabad had stayed the selection process for the post of Vice Principals and Lecturers and thus has misled the University, when in fact the said petition, which was filed by the petitioner itself, was dismissed on 16.12.1993. The petitioner thereafter applied to the Chancellor. However, Hon'ble the Chancellor rejected the representation of the petitioner by a detailed order dated 14.07.1995. When we see that order, it is apparent that Hon'ble the Chancellor has accepted that the petitioner had mis-led the University by filing a wrong affidavit. However, the Hon'ble Chancellor has considered

his representation and Hon'ble Chancellor has also endorsed the action on the part of the University to terminate part time services of the petitioner. We do not however, see anything in the said order regarding the factor of black-listing him permanently. We, therefore, feel that it would be proper for the petitioner to make a fresh representation to the Vice Chancellor only regarding the aspect of black-listing the petitioner permanently. This resolution has been passed on 04.07.1994 and the period of ten years and six months has already elapsed. Under these circumstances, we feel that the petitioner may make representation only in so far as the aspect of permanent black-listing is concerned. We feel that sufficient time has elapsed and the University may consider the representation on such grounds as are raised by the petitioner including lapse of time of ten years.

3. We are aware that the order of the Chancellor was tried to be reviewed and review application has been dismissed. However, we are taking into consideration the factors which are post dismissal factors, like lapse of time, and consideration in respect of permanent black-listing of the petitioner. We make it clear that by this, the petitioner would have no right for claiming any reinstatement or so. On this basis the petition is disposed of.

(V.S.Sirpurkar, C.J.)

(P.C.Pant, J.)

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